

Karin Maihart and Yvonne Spence
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REMARKS

Only claim 1 is being examined.

The change does not involve new matter and its entry is respectfully requested.

REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

In item 1, page 2 of the Office Action, the Office rejected claim 1 under 35 U.S.C. §112, second paragraph. Allegedly, claim 1 is indefinite for not reciting the depth of the sheath.

In response, Applicants have amended the claim to more clearly require that the container essentially fit only a hand or foot. These containers are standard in size. Moreover, Applicants' discovery lies in inventing a liner for a foot or handbath which in turn solves health concerns often found in e.g., nail salons, where sanitation is difficult to maintain but essential when many people use the same container for a manicure or pedicure. The inventive liner provides a sanitary condition and will eliminate infection, disease, germs, and fungus that typically spread as a result of multiple use by multiple users of a foot bath or bowl. Accordingly, the claims more specifically recite the size requirements as requested by the Examiner.

REJECTION UNDER 35 U.S.C. §102(b)

In item 3, page 2 of the Office Action, the Office rejected claim 1 under 35 U.S.C. §102(b) in view of:

1. Evans (Des. 258,696) or
2. Sudduth (Des. 328,160).

Applicants respectfully disagree.

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In rejecting the claims, the Patent Office acted contrary to the guidance provided by the Federal Circuit, as to how to evaluate novelty with respect to the prior art.

Applicants Have Met the Legal Standard for Novelty:

Evans teaches an ear cover to protect ears from water.

Sudduth teaches a nurse's headwear.

None of these references alone teach a liner for a footbath or handbath as claimed. The Examiner takes the position that Applicants have in essence only claimed a liner and its functional use. This is in error.

Applicants' invention is a footbath or handbath liner for a container that can accommodate only a foot or a hand. This liner solves health concerns often found in e.g., nail salons, where sanitation is difficult to maintain but essential when many people use the same container for a manicure or pedicure. The inventive liner provides a sanitary condition and will eliminate infection, disease, germs, and fungus that typically spread as a result of multiple use by multiple users of a foot bath or bowl.

None of the prior art reference teaches such a liner. One cannot adapt the ear cover of Evans, nor the head cover of Sudduth, to cover the inner contours of a footbath or handbath container. The prior art references simply do not disclose every limitation of the claimed invention, either expressly or inherently.

Accordingly, Applicants have met the legal standard for novelty, because the single reference of Evans, does not *identically* disclose the claimed disposable liner. Further,

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the single reference of Sudduth does not identically disclose the claimed disposable liner. Accordingly, neither reference, expressly anticipates the presently claimed invention.

In item 4, page 2 of the Office Action, the Office rejected claim 1 under §102(b) based on Guiste (US Patent No. 6,085,367).

Applicants respectfully disagree.

Guiste teaches a bathtub liner in order to prevent a bather from slipping, falling and consequently injuring himself (column 1, lines 12-13).

Guiste does not teach a footbath or handbath liner to protect against disease from multiple users.

Once again, Applicants point out the claimed invention is not directed to merely any inner container liner. Applicants' invention is a footbath or handbath liner for a container that can accommodate only a foot or a hand. Accordingly, Applicants have met the legal standard for novelty, because the single reference of Guiste, does not *identically* disclose the claimed disposable liner.

In item 5, page 2 of the Office Action, the Office rejected claim 1 under §102(b) based on Bleicher (US Patent No. 5,465,436).

Applicants respectfully disagree.

Bleicher teaches a hydrotherapy tank liner for patients to be seated in the tank having a drain hole for ease of releasing water in the tank (column 2, lines 14-26; column 3, lines 5-9).

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Bleicher does not teach a liner for a handbath or footbath. In configuration footbaths and handbaths are smaller than a tank that holds a person (see Figures 1, 2, and 4).

As stated above, Applicants' invention is not directed to merely any inner container liner. Applicants' invention is a footbath or handbath liner for a container that can accommodate only a foot or a hand. Accordingly, Applicants have met the legal standard for novelty, because the single reference of Bleicher, does not *identically* disclose the claimed disposable liner.

CONCLUSION

No fee, other than the fee for a three-month extension of time, is deemed necessary in connection with the filing of this Amendment.

Respectfully submitted,

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Certificate under 37 C.F.R. §1.8: I hereby certify that this paper and the attachments herewith are being deposited by facsimile with the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on September 9, 2005.

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